

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

March 20, 2001

5:15 PM

In the absence of the Chairman, the Clerk called the meeting to order at the appropriate time.

The Clerk called the roll.

Present: Aldermen Pariseau, Cashin, Hirschmann, O'Neil

Absent: Alderman Thibault

Messrs: Alderman Lopez, Chief Driscoll, M. Normand

The Clerk noted that Chairman Gatsas would be late and that in his absence, a motion is in order to elect a Chairman Pro-Tem.

On motion of Alderman Hirschmann, duly seconded by Alderman O'Neil, it was voted to elect Alderman Pariseau Chairman Pro-Tem.

Chairman Pariseau addressed Item 3 of the agenda:

Request of Philip Mansfield for the approval of a circus license on behalf of the Bektash Shriners to be held at the JFK Coliseum on April 5, 6, 7 & 8, 2001.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to approve this request.

Chairman Pariseau addressed Item 4 of the agenda:

Request of Bud Gilmore for the approval of a circus/carnival license to be held at Singer Park from April 12-22, 2001.

Alderman O'Neil asked, Matt, do you know does this conflict with the one Central does down there.

Mr. Normand answered this is the Central carnival.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to approve this request.

Chairman Pariseau addressed Item 5 of the agenda:

Communication from Jennifer Farrell of AT&T advising of an upcoming change to the packaging of AT&T's video programming which will become effective on March 1, 2001.

Alderman Hirschmann moved to receive and file this communication. Alderman O'Neil duly seconded the motion for discussion.

Alderman Hirschmann stated I heard from a constituent who was very upset. They are an elderly person who was receiving Level I and Level II. Level II has now been taken away from them as well as the downtown place to pick up a guide or pay a bill. It just seems like since we settled this contract, little bits here and there are becoming an issue and it is March 20 today. I don't know why we are getting this 20 days late. They should give us things a month ahead of time.

Chairman Pariseau stated I questioned that too, Alderman, because the way the system is the communication comes in to the full Board and then it is referred to Committee. Then that drags the process.

Alderman Hirschmann asked Clerk Bernier is that true with the cable concerns. Do they go to the full Board first? Don't the AT&T communications come right to this Committee?

Clerk Bernier answered traditionally it goes to the full Board and is then referred here.

Alderman O'Neil stated that is why we have had discussions about streamlining the full agenda and sending it right to Committees. It saves us a month in some cases. You are right, Alderman, not just this issue but we get many issues that are always behind because by the time it gets referred to the Board...

Chairman Pariseau interjected the letter is dated January 31 and it went to the full Board on February 20.

Alderman O'Neil stated right. It would have missed the first meeting in February and that is why it would be good to send things directly to Committee. It will help streamline it a little bit. I guess all we can do is receive and file.

Alderman Lopez asked didn't that pass, Leo, that we send everything to Committee now.

Clerk Bernier answered that is coming up this evening for discussion.

Chairman Pariseau called for a vote. There being none opposed, the motion carried.

TABLED ITEMS

On motion of Alderman Hirschmann, duly seconded by Alderman O'Neil, it was voted to remove item 7 from the table for discussion.

7. Communication from Alderman Lopez requesting that the Board of Assessors provide information over the next 60 to 90 days on processes for updating assessment of City properties.
(Note: approved report to be provided by 11/18/00 and tabled on 11/21/00).

Alderman Lopez stated I talked to Alderman Gatsas and he instructed the Assessor's Office to give a report. I just wanted to inform the Committee of that. If the Committee could follow that up so we could get some type of report, that would be great. It has been well over the three-month time limit they were given.

Alderman Hirschmann asked is it an interim report on the change that we are talking about.

Alderman Lopez answered no. Actually the document is not here, but it was a series of questions that was sent to the Assessor's Office to get information as to how we are going to assess property.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to have the City Clerk send a memo to the Assessor's Office asking that this report be expedited.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to place this item back on the table.

Alderman Gatsas arrived at the meeting.

On motion of Alderman Hirschmann, duly seconded by Alderman O'Neil, it was voted to remove item 6 from the table for discussion.

6. Communication from Deputy Clerk Matthew Normand submitting an Ordinance amendment at the request of the Committee on Administration relating to placing a curfew on entertainment license activities.
(Tabled 02/20/01)

Alderman O'Neil stated since the last meeting, I had asked are there any possibilities where we can get messed up on this. I think everybody was really giving it good thought and they couldn't come up with one, but since then I think we have come up with one. Is that correct, Matt?

Mr. Normand replied yes. The American Cancer Society conducts an event in May, an annual fundraiser in Singer Park where they will play music. I believe at the time they talked about some dancing, but basically they are going to race around the track from 6 PM on one day through noontime the next day. This is an event to raise money for the American Cancer Society. We have issued a permit, an entertainment place of assembly license. All departments have signed off on that. That was one event. Obviously that would fly in the face of this amendment to the entertainment ordinance. Also, there were some discussions with a group out of Portsmouth who wanted to initiate First Night Manchester once again that potentially could pose a problem with the ordinance as well.

Alderman O'Neil asked the Cancer Society event, is this a new event.

Mr. Normand answered yes. They approached us in January, I believe, and this will be their first annual event.

Alderman O'Neil asked for First Night, if they didn't go beyond 2 AM there is no issue, right.

Mr. Normand answered correct.

Alderman O'Neil stated having been to First Night in Boston and Portland...

Mr. Normand interjected unless it falls on a Sunday and then the 1 AM deadline would be imposed.

Alderman O'Neil asked do you see that as being a problem.

Mr. Normand answered depending on how New Year's Eve would fall on a given calendar day, it could or could not pose a problem.

Alderman O'Neil asked if it is not on a Sunday, do you see it going beyond 2 AM.

Mr. Normand answered I would doubt it.

Alderman O'Neil stated I am just wondering if that one is an issue even with the new ordinance.

Mr. Normand replied potentially no. I mean again it depends on the calendar day.

Alderman O'Neil stated so the only one that is really conflicting now is the proposed Cancer Society event.

Mr. Normand replied right up front.

Alderman O'Neil stated I don't know if the Chief has any comments with regards to those two events.

Chief Driscoll stated I guess in the first instance, the First Night NH has never posed a problem in the past. Have they been issued entertainment licenses in the past, Matt?

Mr. Normand replied they have been issued licenses. I am not sure what they are off the top of my head. It has been three or four years since they had one.

Chief Driscoll stated I don't think that there have ever been issues. By the time the fireworks are over people are out of there. They don't linger. The entertainment is in the early evening up until 11 PM prior to the fireworks and once the New Year comes, everybody is gone. I don't think that would be an issue. I have a handle on what the Cancer Society wants to do or how that will be impacted. It has been my goal to preserve the peace and tranquility of the community after 2 AM and we have complaints all of the time relative to music and I just don't think that the City should entertain entertainment after 1 AM or 2 AM depending on the night. That has been my position since Day 1. We have run into serious problems continually as a result of this thing and I think the Board of Mayor and Aldermen has an opportunity at this time to close that door and close it tightly and that would be my request.

Alderman O'Neil stated thinking back to the walk-a-thon of some sort that goes on in Portsmouth and I want to say it is for Easter Seals and I know it is an all night event. I have seen local TV interview people doing stories on it, etc. If somebody came in and asked to do that at Memorial High School or at Livingston Park does this ordinance prevent that from happening?

Chief Driscoll replied if you are looking at me, I say no it doesn't. I say that is not entertainment. The City Solicitor's Office has written a definition and I don't think it was designed...the definition I don't think was designed to talk about walk-a-thons and Cancer Society running around the track. That is not entertainment. That is kind of a participatory fundraising event. I think we are talking about theatrical performances and shows within buildings as opposed to something outside.

Mr. Normand stated all I would add is that in talking to Tom it potentially could add a conflict. The City Clerk's Office has always, as long as I have been there, licensed types of events such as what is happening down at Singer Park.

Alderman O'Neil asked what about the one I just described.

Mr. Normand answered well that is the thing. How do you say to the American Cancer Society yes you need a license and to every other group that comes in to the City and no to Easter Seals having something at Memorial High? Depending on what they are doing...this event happening in Singer Park to me is clearly entertainment. They will have DJ's there. They are playing music. That is what they applied for and that is what was approved by the departments that signed off. The intent of the ordinance when I had originally written it was not to guarantee this people from getting a license. It was to guarantee that they be heard by this Committee and then the Committee could then make a decision. If they felt that they would need additional police officers at the event, then that would be conditional upon granting the license if there was an extension. There was nothing that guaranteed a license for anybody.

Chief Driscoll asked, Matt, how is a fundraiser...how does that classify as entertainment. I see that as distinctly different from what I traditionally think of as entertainment. To me, entertainment is pretty clear and the intent of this ordinance is pretty clear regarding what we want to prevent. If we bring in that new variety of activity, how does that become entertainment? I don't understand that.

Mr. Normand asked what is the difference between dancing at Singer Park with a DJ and dancing at a club. There is really no difference other than the environment. It is entertainment.

Chief Driscoll asked is that what they are doing, dancing.

Mr. Normand answered there was talk about a DJ. There are going to be several DJ's if I recall the conversation and you can ask your deputy because I know that Dale talked to her. As far as the dancing, are you going to say that there is DJ music down there and nobody is going to be dancing? I don't know.

Chief Driscoll asked what is the intent of the activity I guess.

Mr. Normand answered to raise funds but it doesn't matter if it is happening in a club or if it is happening in Singer Park. We have to license them consistently.

Chief Driscoll responded I certainly understand that, but I guess I am trying to figure out what are they going down there to do.

Mr. Normand replied raise funds for the American Cancer Society. I don't know how they have structured there...they are talking about being at the park broken up into teams. Somebody from each team has to be participating throughout the entire function for them to raise their money. It is like if you have to run a mile for 10 cents and kids go around and do that. I am not sure exactly how this is structured, but...

Chief Driscoll interjected at least from my perspective that is not entertainment and that is not what we are trying to address.

Alderman Gatsas stated let me interrupt you because if you say that is not entertainment, you are going to leave an awful big loophole for people to walk in through in saying I have a charity that we are going to raise money for and we are going to have an all night dance festival. You are allowing a loophole there so let's not go there.

Alderman Hirschmann stated this Singer Park thing concerns me because after 2 AM if there is amplified music close to the river that is going to carry across the river into Alderman Cashin's ward. I had a problem with the Ramada Inn a few years ago. If you remember, the amplified music from the poolside went across to the elderly high-rises on the other side of the river and that was in the daytime.

Mr. Normand replied that was discussed by my department and Dale Robinson. We both explained to this woman that her music had to be low and if there were any complaints that was going to be the end of it. It was discussed on both ends.

Alderman O'Neil stated I understand where the Chief is coming from on and I will use this all night walk-a-thon thing. It may or may not happen. Now your position, Matt, is that is entertainment?

Mr. Normand replied the difference here is there are DJ's playing music for this event down at the park. I don't know how you would distinguish the difference between that...

Alderman O'Neil interjected so if I am having a walk-a-thon at Livingston Park and I get a...whatever the charity is and I am not being a wiseguy. I am asking a serious question because it is probably going to come up at some point down the road and just to keep it going Livingston is a little more isolated than Memorial and if they have music not playing loud but enough so that people walking the track can hear it, are they going to need an entertainment license for that? The intent of the event is a fundraiser.

Mr. Normand replied a simple walk-a-thon is currently licensed by the Police Department. When you bring in DJ's and music, you are talking about another element that the City Clerk's Office has licensed in the past.

Alderman Lopez stated I was looking for the definition that you...maybe I am missing it here. Is there a definition someplace? The other question I had is, Matt, if they get a license they can still play music but they can't dance? Is that what I am reading?

Mr. Normand replied I am not following your question. Under the current ordinance?

Alderman Lopez responded right now. They can play music but they can't dance.

Mr. Normand stated that is correct.

Alderman Lopez stated now I went to this thing at the Center of NH, the Hemp Show, and they had some problems over there and we said they couldn't dance, but they danced. I would venture to say that it was a wise decision for them to let them dance to a degree then maybe try to stop them and create a problem. That is their judgment, not mine. The question I have, Chief, is what would happen if you had to enforce it with a crowd that you had like at the Center of NH?

Chief Driscoll replied depending on the circumstances, we would always try to de-escalate those situations. In that situation, they chose to extend the dance time for a period of time rather than confront that large crowd that was there. By waiting them out and working with the people who were running the show, we averted any problems. If worse came to worse, we could subject people to arrest for violating the ordinance, but we certainly wouldn't chose to do that.

Alderman Lopez asked this could hold true for each case.

Chief Driscoll answered certainly. Could I ask Tom a question relative to the definition? Under Paragraph E it says "no exhibit of natural or artificial curiosities, theatrical performances or other shows shall be permitted." Does that definition cover or exclude a walk-a-thon or a fundraiser? That is certainly not what we intended to exclude and I don't see how, quite frankly, that covers it.

Deputy Solicitor Arnold stated first of all public dancing is covered by, depending on what document you are looking at, Paragraph A, "no exhibit of natural or artificial curiosities, theatrical performances or other shows shall be permitted"...

Chief Driscoll interjected is that going to prohibit a disc jockey from playing music and having people walk around a track or doing whatever they are doing.

Deputy Solicitor Arnold responded it is a matter of interpretation. I think you have to do it consistently. My concern would be where you have music as opposed to someone just walking around a track, that would probably be a show or dancing of some type. The problem you will run into is that if you start carving out exceptions then you have to apply those exceptions across the board. So, I think you have to look at the activity that is going on and not the intent behind the activity. Obviously, fundraising for non-profit organizations is a laudable goal, but you have to look at how they are arriving at that as opposed to...

Alderman O'Neil asked can I go back to by walk-a-thon at the Gatsas Sports Facility. Let's say it starts at noontime and they have a DJ playing the Beach Boys or whatever and people are walking around the track and all of the sudden it becomes...and the intent is this is a 24-hour thing. Now the intent there is a walk-a-thon but it just happens to be that they might have a water station and some food and the music is just supporting the event and not the focus of it. If that went all night, wouldn't that still be considered a walk-a-thon? If they are violating a noise ordinance or something, that is one thing but the intent is a walk-a-thon and the music or selling food, etc. is all part of supporting the event, correct?

Deputy Solicitor Arnold answered I think you could certainly interpret it either way. As I said, my concern is if you carve out an exception. That might be fine for the walk-a-thon you are talking about, but you might get some other group in that might have the control for instance of the organization putting on the walk-a-thon doing the same thing and having music or whatever and you have to apply it evenly across the board.

Chairman Gatsas stated obviously the incident that Alderman Lopez brings up certainly on the face of it looks like an enforcement issue and obviously maybe the enforcement should come down to the person who is pulling the license that you don't have to disrupt or put police officers in harms way but certainly arresting him after the fact because he violated the license...I think obviously we are looking to set policy at this end and there is no question that we should attempt to make the parameters pretty tight there. With some of the things that the City Solicitor has talked about, it is difficult to do that so why wouldn't we just say that it has to come to this Committee and allow this Committee to make that decision?

Alderman O'Neil replied I think the intent when we started this thing was to clean up a lot of these...I don't know if the right word is Raves or whatever they are going on around the City and I think we are all in agreement on those. I don't think there is any disagreement on those. That was the intent of this whole discussion and somehow we have gotten into this "what if" kinds of things and I am as much to blame as anyone for that. I don't want to be changing this thing three or six months down the road because we have a legitimate event that should be considered.

Alderman Pariseau stated getting back to Alderman O'Neil's concerns, the reason why it is still here is because there was a difference between the Police Department and this Committee. We wanted to have exceptions to the ordinance and the Police Chief doesn't feel that we should. I think maybe we ought to go along with the exceptions because of the situation with the American Cancer Society.

Alderman Hirschmann stated I believe what the Chief is telling us is the right way to go. I would urge the Committee only to consider that we close it at 2 AM and that we do not entertain any special exceptions at all. Just as the Solicitor said, once you start making exceptions, you are going to have to remember all of the exceptions you made because you are going to be setting precedents in the future. All fundraisers can be held before 2 AM. There is plenty of time for Singer Park to hold a fundraiser. At 2 AM cut it off and get it over with.

Alderman Hirschmann moved to amend the ordinance as submitted by the Police Department. Alderman Pariseau duly seconded the motion. Alderman Gatsas called for a vote. There being none opposed, the motion carried.

There being no further business to come before the Committee, on motion of Alderman Hirschmann duly seconded by Alderman O'Neil, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee